

the current calendar year the wine excise tax owed will exceed the amount of the coverage under the proprietor's operations bond for wine removed from bonded wine premises on which tax has been determined but not paid, the proprietor will file an Excise Tax Return with the total remittance on the date the wine excise tax owed will exceed such amount and file an aggregate Excise Tax Return within 30 days after the close of the calendar year showing the total wine tax liability for such calendar year. If before the close of the current calendar year the wine excise tax liability (including any amounts paid or owed) equals \$1000 or more, the proprietor will commence semimonthly filing of the wine Excise Tax Returns and making of payments as required by § 24.271.

(b) A proprietor who files under this section is subject to the failure to pay or file provisions of § 24.274. If there is a jeopardy to the revenue, the appropriate ATF officer may deny the exceptions to filing tax returns provided in this section at any time. (Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-312, 56 FR 31082, July 9, 1991; T.D. ATF-338, 58 FR 19064, Apr. 12, 1993; 58 FR 48424, Sept. 15, 1993; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

#### **§ 24.274 Failure to timely pay tax or file a return.**

Penalties for failure to pay tax at the time required, for willful refusal to pay the tax and for fraudulent nonpayment of tax are provided for in 26 U.S.C. 5661 and 6656. In addition to these penalties, there is a penalty for the delinquent filing of a tax return, imposed as an addition to the tax shown on the return, amounting to five percent for each month or fraction thereof of the delinquency, not exceeding 25 percent in the aggregate, unless it is shown that the delinquency is due to reasonable cause and not to willful neglect. (Sec. 201, Pub. L. 85-859, 72 Stat. 1407, as amended, 1410, as amended (26 U.S.C. 5661, 5684, 6651, 6656))

#### **§ 24.275 Prepayment of tax.**

(a) *General.* The proprietor shall, before removal of wine for consumption or sale, file Excise Tax Return, ATF F 5000.24, with remittance, where:

(1) Required to prepay tax under § 24.276; or,

(2) The tax deferral bond is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of the bond by more than the amount of such tax covered by the wine operations coverage of the wine bond; or,

(3) There is no approved tax deferral bond and the total amount of tax unpaid at any one time exceeds the amount of the wine operations coverage of the wine bond designated for wine removed from bonded wine premises on which tax has been determined but not paid.

The return with remittance is forwarded pursuant to the instructions printed on the return. For the purpose of complying with this section, the term "forwarding" means deposit in the United States mail properly addressed to ATF.

(b) *Electronic fund transfer.* When the proprietor is required by § 24.272 to deliver payment of tax by electronic fund transfer, the proprietor shall prepay the tax before any wine can be removed for consumption or sale by:

(1) Completing the Excise Tax Return and by mailing it, as instructed on the form, to ATF and

(2) Directing the proprietor's financial institution to effect an electronic fund transfer. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

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#### **§ 24.276 Prepayment of tax; proprietor in default.**

When the proprietor fails to forward a payment for wine excise tax due by presentment of a check or money order, or when the proprietor is otherwise in default of payment of the tax,

## § 24.277

no wine may be removed for consumption or sale until the tax has been paid for the period of the default and until the appropriate ATF officer finds the revenue will not be jeopardized by the late payment of the tax. Any remittance made during the period of the default will be in cash, or will be in the form of a certified, cashier's, or treasurer's check drawn on any financial institution incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or in the form of a money order, as provided in 27 CFR 70.61 (payment by check or money order) or in the form of an electronic fund transfer. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391 as amended (26 U.S.C. 6301, 6311, 6302))

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## § 24.277 Date of mailing or delivering of returns.

(a) When the proprietor sends the Excise Tax Return, ATF F 5000.24, with or without remittance, by United States mail, the official postmark of the United States Postal Service stamped on the cover of the envelope in which the return was mailed is considered the date of delivery of the tax return and, if accompanied, the date of delivery of the remittance. When the postmark on the cover is illegible, it is the proprietor's responsibility to prove when the postmark was made.

(b) When the proprietor sends the tax return by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, is treated at the date of delivery of the tax return and, if accompanied, the date of delivery of the remittance. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

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## 27 CFR Ch. I (4-1-03 Edition)

## § 24.278 Tax credit for certain small domestic producers.

(a) *General.* In the case of a person who produces not more than 250,000 gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by Title 26, U.S.C. (other than Chapters 2, 21 and 22), an amount computed in accordance with paragraph (d) of this section, on the first 100,000 gallons of wine (other than champagne and other sparkling wine) removed during such year for consumption or sale. Such credit applies only to wine which has been produced at a qualified bonded wine premises in the United States. The small wine producer's tax credit is available only to eligible proprietors engaged in the business of producing wine. A proprietor who has a basic permit to produce wine but does not produce wine during a calendar year may not take the small producers' wine tax credit on wine removed during such calendar year. A proprietor who has obtained a new wine producers' basic permit may not take the small producers' wine tax credit on wine removed until wine is produced by such proprietor. "Wine production operations" include those activities described in paragraph (e) of this section.

(b) *Special rules relating to eligibility for wine credit—(1) Controlled groups.* For purposes of this section and § 24.279, the term "person" includes a controlled group of corporations, as defined in 26 U.S.C. 1563(a), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" wherever it appears. Also, the rules for a "controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. Production and removals of all members of a controlled group are treated as if they were the production and removals of a single taxpayer for the purpose of determining what credit may be used by a person.

(2) *Credit for transferees in bond.* A person other than an eligible small producer (hereafter in this paragraph referred to as the "transferee") shall be allowed the credit under paragraph (a) of this section which would be allowed to the producer if the wine removed by